IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

MFA.No. 1338 of 2001()

OPMV.796/1999 of MOTOR ACCIDENT CLAIMS TRIBUNAL, MANJERI DT.30.5.01.

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APPELLANTS: PETITIONERS
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1. **SELVAKUMAR, S/O.DURAI SWAMI, SURAMKUDI, PILLAYARKOVILTHERU, ARYANAYIGA PURAM (VIA), BILATHIKULAM TALUK, THUTHUKKUDI DISTRICT.**

2. **UMAYAMMAL, W/O. SELVAKUMAR, DO. DO.**

3. **MURUGAN, S/O. SELVAKUMAR, DO. DO.**

4. **UMA JYOTHI D/O. SELVAKUMAR, DO. DO.**

BY ADV. SRI.K.M.SATHYANATHA MENON

RESPONDENTS: RESPONDENTS
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1. **ABDUL HAMEED N.K., S/O.ALAVI N.K., NADUVILAKALATHIL HOUSE, MELAKKAM, BISMILLAH ROAD, MANJERI (DRIVER)**

2. **ALANGADAN YAKOOB, S/O. MOHAMMED, MENCHEPETTA, MALAPPURAM (OWNER).**

3. **UNITED INDIA INSURANCE CO. LTD. MANJERI(INSURER)**

BY ADV. SRI.MATHEWS J.NEDUMPARA - R3

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 06/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.No.1338 OF 2001

Dated 6th July, 2007

JUDGMENT

Koshy,J.

A youngster aged 24 died in a motor accident on 12.11.1998 at 9.30 a.m. on the public road. His parents, brother and sister filed an application claiming Rs.12,25,000/= as compensation. The Tribunal found that the accident occurred due to the negligence of the driver of the vehicle insured by the third respondent insurance company, but, only Rs.2,52,000/= was awarded as total compensation. Only quantum of compensation is disputed in this appeal.

2. According to the claimants, the deceased was earning Rs.10,000/= per month as a cloth merchant, but, in oral evidence that was reduced to Rs.6,000/=. No data was produced with regard to the income of the deceased at the time of death. The Tribunal has fixed Rs.2,500/= as monthly income and loss of dependency at Rs.20,000/= per year. It was argued that being a cloth merchant at the younger age more amount should have been taken by the Tribunal. However, in the absence of data we are not changing the assessment of dependency loss made by the Tribunal. It was also argued that the deceased was aged 24 and, therefore, in natural course, 18 should have been taken as the multiplier, but, only 12 was taken as the multiplier. According to the claimants, father

was aged 49, mother was aged 39 and brother and sister were younger to the deceased. As held by the Apex Court, in the case of death of an unmarried person, age of the claimants also has to be looked into. Taking note of the fact that mother was aged only 39 at the time of accident and considering the totality of circumstances, we take 15 as the multiplier. If 15 is the multiplier, amount payable will be Rs.3,00,000/= (20,000 x 15). The Tribunal has awarded only Rs.2,40,000/=. So, claimants will be entitled to an additional amount of Rs.60,000/= as compensation for loss of dependency. Even though it was argued that amounts awarded under other heads are also very meagre, in view of the total compensation granted, we are not enhancing the same. The additional amount of Rs.60,000/= should be deposited by the third respondent insurance company, over and above the decreed amount, with 7% interest from the date of application till its deposit. On deposit of the amount, father and mother are entitled to withdraw the same in equal proportion.

The appeal is partly allowed.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

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